

VIRGINIA:

IN THE FAIRFAX COUNTY CIRCUIT COURT

FILED
CRIMINAL

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CLERK
CIRCUIT COURT
FAIRFAX, VA

COMMONWEALTH OF VIRGINIA,

v.

LEE BOYD MALVO,

Defendant.

Criminal No. 102888

**MOTION FOR FUNDING OF ADDITIONAL HOURS FOR EXPERT INVESTIGATORS
AND INCORPORATED MEMORANDUM OF LAW**

COMES NOW Defendant, Lee Boyd Malvo, by his co-counsels, pursuant to the Sixth, Eighth and Fourteenth Amendments of the United States Constitution and Husske v. Commonwealth, 252 Va. 203, 476 S.E.2d 920 (1996), and moves this Court to approve funding of 300 hundred additional hours of work for each of the three investigators that this Court appointed to assist the juvenile, Lee Boyd Malvo in his defense. This motion will be heard on Friday, June 20, 2003 at 8:30 A.M. In support of this motion, counsel states as follows:

1. On March 3, 2003 this Court appointed three expert investigators to assist in the defense of the juvenile, Lee Boyd Malvo, and found by implication that Mr. Malvo had demonstrated that "the services of an expert would materially assist him in the preparation of his defense and that the denial of such services would result in a fundamentally unfair trial." Husske, 252 Va. at 212.
2. Because it would have been impossible at that early date to determine the exact number

of hours necessary to protect Mr. Malvo's right to a fair trial, the Court further ruled that, as a starting point, funding for each investigator would be initially approved for up to 200 hours and that if that amount proved insufficient, Mr. Malvo should return and request additional hours.

3. It is now clear that 300 additional hours are required. While counsel have focused the investigator hours on aspects of the case that are crucial to Mr. Malvo's defense, the scale of this case is enormous and there are many critical areas that remain unexamined.

4. If Mr. Malvo is unable to use investigators to examine these critical areas it will prevent him from presenting an adequate defense and violate his right to a fair trial.

WHEREFORE, the Defendant respectfully requests 300 additional hours of funding for each of his three investigators.

Respectfully submitted,
LEE BOYD MALVO

By: 15/
Co-Counsel

and

By: 15/
Co-Counsel

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CERTIFICATE OF SERVICE

We/I hereby certify that a true copy of the foregoing Motion/Memorandum was hand-delivered to:

Robert F. Horan, Jr., Esquire
Commonwealth's Attorney
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and the original was forwarded for filing to:

Hon. John T. Frey
Clerk
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

and a true copy was forwarded to the

Hon. Jane Marum Roush
Judge
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

this 19th day of June, 2003.

/s/

Co-Counsel

and

/s/

Co-Counsel